

010188

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In Re Application of: ) For: METHOD AND APPARATUS FOR  
Wolfe, et al. ) PROVIDING VIRTUAL CAPACITY TO A  
 ) PROVIDER OF SERVICES  
 )  
Serial No.: 10/000,247 )  
 ) Group Art Unit: 3623  
Filed: October 29, 2001 )

OCT 13 2005

ELECTION

Commissioner of Patents  
Alexandria, VA 22313

Attention: Romain Jeanty, Examiner

Dear Sir:

This is in response to the Office Action dated September 13, 2005.

In his office action, as understood, the examiner has expressed a requirement for restriction alleging a number of patentably distinct species of the invention, apparently contained in various dependent claims that have been presented.

I hereby certify that this correspondence is being via facsimile to the Commissioner of Patents and Trademarks, Alexandria, VA 22313, on:

October 13, 2005

(Date of Deposit)

Victoria Pacey

(Name of Person Making Deposit)

(Signature)

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As understood, the examiner has alleged that  
Group a) claims 5 and 41 represent distinct species, of generic claim 1,  
Group b) claim 51 is a distinct species, apparently standing by itself, claim 50 being generic (which depends from independent claim 1),  
Group c) claims 53 – 55 and 62 represent distinct species, claim 52 being generic,  
Group d) claim 58 is a distinct species, apparently standing by itself, claim 57 being generic (which depends from independent claim 1),  
Group e) claim 60 is a distinct species, apparently standing by itself, claim 56 being generic (which depends from independent claim 1),

As understood, the examiner is apparently alleging each of the claims in Groups a) – e) is a species of the element of the independent claim from which they depend, and for which it is, by definition, a limitation, although Groups b), d) and e) are apparently considered to be species of themselves.

To constitute a complete response to the best understanding of applicant's attorney, the following alleged species are elected if no generic claim is held to be allowable:

- Group a) claim 5
- Group b) claim 51
- Group c) claim 53
- Group d) claim 58
- Group e) claim 60.

This election is made with traverse. The species are not distinct, since they are all in a class of dependent claims depending from the same, single independent claim 1, and, by definition, represent limitations of the elements stated therein. Moreover, it is a fundamental matter that by definition, items cannot be a species of themselves, as apparently alleged with respect to claims in Groups b), d) and e).

It is therefore respectfully requested that this restriction requirement be withdrawn, and the case be properly examined.

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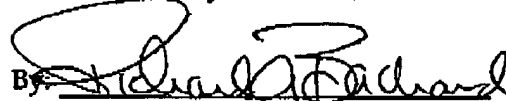
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The Commissioner is hereby further authorized to charge payment of any additional fees which may be required, or credit any overpayment, to Deposit Account No. 17 - 0026. A duplicate of this sheet is enclosed.

In light of the foregoing, the Examiner's reconsideration of this application with a view toward allowance is respectfully requested. The Examiner is invited to call the undersigned agent if a telephone call could help solve any remaining items.

Dated: October 13, 2005

Respectfully submitted,



Richard A. Bachand  
Attorney for Applicant  
Registration No. 25,107

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**OFFICIAL COMMUNICATION**

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***Facsimile Transmittal***

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**DATE:** 10/13/05

**TO:** Amendment  
Commissioner for Patents

**ATTN:** Examiner: Romain Jeanty  
Art Unit: 3623

**FAX NUMBER:** (571) 273-8300

**FROM:** Richard A. Bachand, Attorney for Applicant  
Registration No. 25,107

**Total Number of Pages Sent:** 5 (including this transmittal cover sheet)

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**FILING BY FACSIMILE:**

**ATTORNEY DOCKET NO.:** 010188

**ENCLOSED ARE:**

- Amendment (3 pages)
- Transmittal (in duplicate)

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OCT 14 2005

**APPLICANT:** Wolfe, et al.

**ASSIGNEE:** QUALCOMM Incorporated

**SERIAL NO.:** 10/000,247

**FILED:** October 29, 2001

**FOR:** METHOD AND APPARATUS FOR PROVIDING VIRTUAL CAPACITY TO A PROVIDER OF SERVICES

\*\*\*\*\*

Please contact Victoria J. Pacey at (858) 651-3411 if all pages do not transmit.

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## AMENDMENT TRANSMITTAL FORM

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450Customer No.: 23696  
Attorney Docket No.: 010188  
In Re Application of: Wolfe, et al.  
Serial Number: 10/000,247  
Filed: October 29, 2001  
Examiner: Romain Jeanty  
Group Art Unit: 3623**RECEIVED**  
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OCT 13 2005

Dear Sir:

Transmitted herewith for filing is a Response to Office Action in the above identified application.

CLAIMS	(a) Number Remaining After Amendment	(b) Highest Number Previously Paid For	(c) Extra Claims	Large Entity Fee	Fee Paid
Total*	20	40	0	x \$50 =	\$0
Independent**	4	6	0	x \$200 =	\$0
Multiple Dependent Claim(s): <input type="checkbox"/> Yes <input type="checkbox"/> No				\$360	\$
EXTENSION FEES				<input type="checkbox"/> One Month	\$120
				<input type="checkbox"/> Two Months	\$450
				<input type="checkbox"/> Three Months	\$1020
TERMINAL DISCLAIMER				\$130	\$
				TOTAL FEE	\$

\*If the number in column a is less than 20, enter 0 in column c.

\*\*If the number in column a is less than 3, enter 0 in column c.

4. ☐ Fee check in the amount of \$\_\_\_\_\_ is enclosed to pay for any claim and/or extension fees.
5. ☐ Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated the amount of \$\_\_\_\_\_.  
The Commissioner is hereby authorized to charge payment of any additional fees that may be required, or credit any overpayment to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed for fee processing.
6. ☒ The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant to 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

Date: October 13, 2005

Signature: Richard A. Bachand, Reg. No. 25,107  
Phone No. (858) 845-8503QUALCOMM Incorporated  
Attn: Patent Department  
5775 Morehouse Drive  
San Diego, California 92121-1714  
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## CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

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- ☐ deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

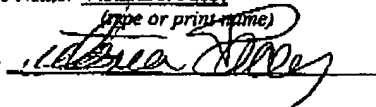
Depositor's Name: \_\_\_\_\_  
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Depositor's Name: Victoria J. Pacey

Signature: 

(TRANSAMD.VER1.13-04/30/04)